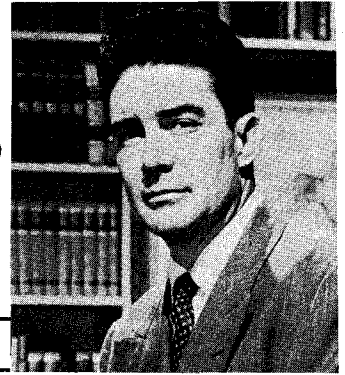


THE *Dan Smoot Report*



DAN SMOOT

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THE FCC AND FAIRNESS

Under the Federal Communications Act of 1934, the Federal Communications Commission regulates the broadcasting industry. It is doubtful that Congress had constitutional authority to enact the Communications Act. Ostensibly, the authority was in the Interstate Commerce clause (Article I, Section 8):⁽¹⁾

"The Congress shall have Power to . . . regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

The pertinence of this authority is clouded by a provision of the Act itself. In Section 3 (h) of the Communications Act, Congress provided that a person engaged in radio broadcasting shall not be deemed a common carrier.⁽¹⁾

If broadcasters are not in the legal category of common carriers operating in interstate commerce, how can the federal government assume authority under the Interstate Commerce clause to regulate broadcasters? Legally, it cannot; but it did. While giving the Federal Communications Commission regulatory power, Congress tried to confine that power to keep it from violating the First Amendment which sternly prohibits Congress from doing anything to abridge freedom of speech. Section 326 of the Communications Act of 1934, as amended, says:

"Nothing in this chapter shall be understood or construed to give the [Federal Communications] Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication."⁽¹⁾

Note also some key passages from a Report by the FCC itself:

". . . the Commission's regulatory authority is limited to its licensing function."

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“... while the Commission may inquire of licensees what they have done to determine the needs of the community they propose to serve, the Commission may not impose upon them its private notions of what the public ought to hear.”

“... the Commission in administering the Act and the courts in interpreting it have consistently maintained that responsibility for the selection and presentation of broadcast material ultimately devolves upon the individual station licensee, and that the fulfillment of the public interest requires the free exercise of his independent judgment. Accordingly, the Communications Act ‘does not essay to regulate the business of the licensee. The Commission is given no supervisory control over programs, of business management or of policy The Congress intended to leave competition in the business of broadcasting where it found it’ ”⁽¹⁾

It turned out that the power to *license* is the power to *destroy*.

In its Mayflower Broadcasting Company case of 1941, the FCC decided it was in the public interest to *prohibit* broadcast station officials from expressing their own opinions, over their own stations, on any controversial subject. In a nation whose Constitution prohibits Congress from abridging anyone’s freedom of speech, an agency created by Congress flatly ordered certain responsible people who owned and operated broadcast stations not to speak at all, over their own stations.⁽²⁾ The broadcasting industry did not resist. Networks and most stations did circumvent the FCC ruling by various means—usually by hiring commentators to present “their” viewpoints; but not one industry leader tried, directly and legally, to challenge the FCC’s lawless usurpation of power.⁽²⁾ Thus, the industry itself implicitly endorsed the principle that the FCC had limitless, absolute power.

On June 1, 1949, the Federal Communications Commission issued a Report, “In the Matter of Editorializing by Broadcast Licensees” (FCC Docket No. 8516). With dissenting views, this Report fills 32 typed, single-spaced pages, and makes very little sense. It is a typical bureaucratic fulmination meaning anything which bureaucrats assert it means. The FCC claims it states a “Fair-

ness Doctrine” for the broadcasting industry. It does not revoke the Mayflower decision of 1941 which silenced licensees. In fact, it refers favorably to that decision. Yet, it says that licensees who editorialize (express their own views) on controversial issues have an affirmative obligation to afford reasonable opportunity for the presentation of contrasting viewpoints.

One member of the FCC at the time, Commissioner Jones, dissented from the “Fairness Doctrine” Report of June 1, 1949. Commissioner Jones called the Report a “formless policy statement,” presenting a vague concept of a broadcaster’s duty to be fair, impossible for broadcasters to use as a policy guide. Commissioner Jones said the June 1, 1949, Fairness Doctrine statement revealed either a “reluctance to admit the error of the earlier [Mayflower] decision or a desire to perpetuate its evil effect.”⁽²⁾

The 1949 Fairness Doctrine not only perpetuated, but augmented, the evil effect of the 1941 Mayflower doctrine. No one can operate a broadcast station without a license from the FCC. The license must be renewed every three years. The FCC has power to grant or withhold, renew or not renew, a license on the basis of the Commission’s finding that “public interest, convenience, and necessity would be served.” One striking example of how the FCC uses its power, “in the public interest,” can be found in Austin, Texas: a big city, the capital of a big state, which has *one* television station. The FCC has rejected all applications for license to operate a competing television station in Austin. The station with a monopoly in Austin, Texas, is owned by the Lyndon B. Johnson family.⁽³⁾

Broadcast stations (particularly television) require heavy capital investment. Some television stations are valued in millions of dollars. The FCC can render the investment nearly worthless by deciding not to renew the broadcast license. Most station managers wait in anxiety for the renewal period. The bigger the investment, the greater the anxiety. Courage generally decreases as investment increases. The owner of a small station

costing a few thousand dollars may have fortitude to run his station as he thinks best, in compliance with law and good taste, but in defiance of whims and illegal rulings of the FCC. The manager of a ten-million-dollar station, or of a network, is often an employee, running the business for investors anxious to avoid trouble with the federal government. Broadcast policy conforms with known desires of the reigning bureaucracy, even when those desires are not overtly expressed as orders.

The FCC's 1949 Fairness Doctrine gave no comprehensible definition of fairness. One cannot be given. What seems fair to some, may seem unfair to others. So, in effect, the FCC's 1949 Fairness Doctrine ordered broadcasters to editorialize but warned that they had better do it to suit the FCC. One chief result: many broadcast facilities of the nation have become controlled disseminators of government-approved news.⁽⁴⁾

Government control is not overt, direct, and formal. It is largely imposed by broadcasting officials themselves. Some anticipate what federal officialdom wants, merely to avoid trouble; but foremost leaders of the industry are swayed by the same forces which set major policies of the federal government itself. For example, Irving Levine (NBC news official and commentator); William S. Paley (Chairman of the Board, CBS); David Sarnoff (Chairman of the Board, Radio Corporation of America—NBC, Victor); Gardner and John Cowles (whose Cowles Magazine Company owns *Look*, *Minneapolis Star and Tribune*, *Des Moines Register and Tribune*—and at least one major broadcasting company); and Leland Stone (head of News Reporting for Radio Free Europe)—are some of the broadcasting industry leaders who belong to the Council on Foreign Relations.⁽⁵⁾

The Council on Foreign Relations is the controlling center of a vast complex of tax-exempt organizations whose key officials have become the invisible government of the United States. Members of the Council (and of interlocking tax-exempt organizations) occupy controlling positions in government, in educational institutions, in labor

unions, in major industries, in communications, in finance. The tentacles of their power are wrapped around levers which control political decisions in Washington and the molding of public opinion throughout the nation. The aim of the invisible government is to convert the United States into a socialist province of a one-world socialist system.⁽⁵⁾

Major broadcast networks are largely controlled by men who belong to, or are influenced by, the invisible government, just as the federal bureaucracy is. Hence, network managers know, and generally approve, the slant which federal officialdom wants given to the news; and networks dominate news reporting. As the FCC says:

"Network programs . . . are the principal broadcast fare of the vast majority of television stations throughout the country."⁽¹⁾

More Fairness

Implementation of the 1949 FCC Fairness Doctrine was effected, to the *general* satisfaction of the FCC, by voluntary efforts of the networks;⁽⁴⁾ but *total* control was never achieved. There are a few areas where local commentators present national news as *they* see it, without regard to the wishes of Washington officialdom. There are a few who reach regional audiences by syndicating transcribed broadcasts to individual stations. But constitutional conservatives are totally excluded from broadcasting in many areas of the nation. Elsewhere, they are submerged by the overwhelming preponderance of managed news from the networks.

The President in one televised press interview reaches more people with arguments for his programs than all strong critics of the programs can reach in months. The combined coverage of all uncompromising conservative broadcasters is less than the daily coverage of one network commentator. Nonetheless, socialists, who call themselves liberals, are in a frenzy because the conservative viewpoint is broadcast at all. Their determination

to silence constitutional conservatives is revealed by the so-called Reuther Memorandum, and by what happened after it was written.

On December 19, 1961, Walter Reuther presented to Attorney General Robert Kennedy a memorandum (which had been prepared by Walter's brother, Victor) on "The Radical Right in America Today." Reuther said "radical rightists" are all Americans as conservative as Senator Barry Goldwater. He acknowledged that there are millions of them and that their numbers are increasing. Alleging that the radical right is more dangerous than communism, Reuther asked the Attorney General to put radical right organizations on the subversive list. He also suggested that the Federal Communications Commission do something to banish the radical right from radio and television.⁽⁶⁾

Nineteen months and one week later, the Federal Communications Commission did something. On July 26, 1963, the FCC sent a Public Notice to all radio and television stations, advising them of their "Responsibilities under the Fairness Doctrine as to controversial issue programming."⁽⁷⁾ The FCC says this Notice does not change, but merely clarifies, the 1949 Fairness Doctrine. The clarification is apparent to all who understand the semantics of liberal officialdom.

The FCC (wrapping its language in ambiguity to provide defense against congressional criticism) indicates (section "c" of the July 26, 1963, Notice)⁽⁷⁾ the kinds of programs it wants carefully watched: those dealing with "Americanism," "anti-communism," and "states rights"; those dealing with racial matters in a way not pleasing to organized negro and other civil rights groups. The FCC notified stations that if they carry such broadcasts they must aggressively seek means to provide equal opportunities for spokesmen of opposite views. The FCC Notice was an open invitation for extremist liberal groups to harass broadcast stations with demands for rebuttal time to answer every conservative broadcast displeasing to liberals. Liberals and broadcast stations got the message readily.

The Nuclear Test Ban Treaty (signed in Moscow, July 25, 1963) was on its way to the U. S. Senate for ratification when the FCC's July 26, 1963, Fairness Doctrine Notice was on its way to all broadcast stations. Since it fosters unilateral American disarmament and impairs American sovereignty, the Treaty was a giant stride toward the ultimate goal of the invisible government—converting the United States into a socialist province of a one-world socialist system.⁽⁸⁾ Hence, Senate ratification of the Treaty was, at the time, *the* primary objective of totalitarian liberals. For several months (from prior to actual signing of the Treaty until Senate ratification on September 24, 1963), the American public was heavily bombarded with propaganda favorable to the Treaty. Broadcast time devoted to *all* arguments *against* the treaty was probably less than one-tenth of one percent of time devoted to arguments *for* it. Yet, an organization calling itself Citizens Committee for a Nuclear Test Ban Treaty wrote to stations carrying my broadcasts and those of Dean Manion, demanding *free* time to answer our *sponsored* broadcasts which criticized the Treaty. The Committee implied that the public had had no opportunity to hear arguments in favor of the Treaty.

Some broadcast station managers used the free-time demand as an excuse to cancel broadcasts critical of the Treaty. Others used it as an excuse to eliminate *all* strong conservative commentary from their facilities. Many yielded to the pressure to avoid trouble. The Citizens Committee's demand letter was mailed on August 23, 1963, to more than 300 broadcast stations. By August 29, it had received grants of free time from about 150 stations. Some stations wrote the FCC, asking whether they must give *free* time to answer conservative broadcasters whose time had been *bought* at regular rates. An FCC official was quoted as saying the Commission "couldn't answer the question, since the commission had never settled the issue."⁽⁹⁾

The Commission has not yet answered the question clearly, and probably never will. It is obvious (in the Public Notice of July 26, 1963, and in

subsequent FCC statements and letters “explaining” the Notice) that the FCC *wants* broadcast stations to eliminate strong conservative commentary, and *wants* them to grant free time for liberal rebuttal of any sponsored program displeasing to liberals; but the FCC does not have authority to *order* such discrimination. If it gave such orders, it would be in trouble with Congress. Hence, the FCC resorts to ambiguous jargon, depending on a majority of broadcasters to interpret as the FCC desires — leaving for itself another interpretation if necessary.

In the July 26, 1963, Public Notice, the FCC mentioned religious broadcasts among those to be watched for “fairness.”⁽⁷⁾ It is clear that FCC means only conservative evangelists who preach the Gospel and criticize the theology and politics of liberals. The April 1, 1964, issue of *Concern* (publication of the General Board of Christian Social Concerns of the Methodist Church) published an article by Glenn D. Everett, a Washington correspondent for religious periodicals, who, for years, has had close liaison with the FCC, reporting on FCC activities of interest to religious broadcasting. From Mr. Everett’s article:

“The Federal Communications Commission is preparing to send a document to . . . radio and television stations . . . [which] will indicate the FCC means business in imposing stringent curbs on protestant evangelists who fill the air with diatribes against other theologians and church groups

“Evidence has been mounting for some time in Washington that the Commission had reached the end of its patience with Dr. Carl McIntire, whose ‘Twentieth Century Reformation Hour’ is currently carried as a paid religious broadcast by 442 radio stations His repeated thesis is that the leaders of all major Protestant denominations, because of subversive socialistic teachings absorbed during seminary education, are engaged in a clandestine conspiracy to turn America toward communism and atheism

“Ultimately, some answer had to be found for this type of abuse over the airwaves The occasion arose early in 1963 when the FCC began to take a look at the operation of a 50,000-watt privately-owned international shortwave broad-

casting station located in Red Lion, Pennsylvania. It was licensed to the Reverend John N. Morris, a minister of the Independent Fundamentalist Churches of America, and a close friend of McIntire. The principal programming being beamed to southern Europe and Middle East by this station . . . seemed to be McIntire’s tirades, supplemented by some of [Billy James] Hargis’ broadcasts, and ‘news broadcasts’ by various right-wing commentators

“The United States Information Agency and American embassies abroad began to take alarm. The USIA warned that many Europeans could not understand why such broadcasts were allowed if they were not true, and had begun to fear that a right-wing revolution was taking place in America The FCC decided it had better make some rules for these stations

“As soon as the FCC began to frown at Dr. McIntire’s overseas broadcasts, the evangelist . . . began to shout *censorship* At the same time, some local stations carrying Dr. McIntire’s domestic broadcasts, finding that the programs poisoned their community relations with the majority of protestant churches, started to show reluctance to sell him any more time. The evangelist professed to see in this a conspiracy of the Washington bureaucracy to pressure him off the air.

“A barrage of more than 25,000 letters, a volume unprecedented in FCC history, bombarded the Commission The Commissioners found it difficult to make any reasonable response to such distorted criticism

“But, as is often the case, when a government agency finally decides to crack down, the blow falls with great force when at last it comes.

“While Dr. McIntire, Dr. Hargis, and the others will be free to continue carrying on their ‘evangelistic’ messages in the same familiar format, it is obvious that the stations carrying the broadcasts will be put to considerable trouble. The prospect of 442 radio stations writing a letter each morning to the Council of Bishops of the Methodist Church to inform them that they have been attacked by Dr. McIntire, enclosing a copy of the transcript, with an offer of free time for reply, is an intriguing one.

“The stations will quickly get tired of writing such letters and the free time they would have to offer . . . will make the operation uneconomical, to say the least

“As soon as the new guidelines from the FCC

make it clear that compliance with the 'fairness doctrine' is to be examined at the end of each 3-year license renewal period, the resistance to this type of religious broadcasting will sharply increase

"Thus, the fundamentalist evangelists who have thrived so well by creating an atmosphere of fear and ill-will seem to be facing the end of the trail."

Counterattack

Actually, neither conservatives nor liberals are legally entitled to free time for rebuttal of broadcasts which they dislike. If a station broadcasts obscene or libelous matter, court (not the FCC) is the proper place to seek remedy. If a station's programming defies good taste or the desires of the public, the free market is the proper place for correction: people can refuse to patronize the station and all business firms that advertise on it.

Yet, since liberals use the FCC Fairness Doctrine as a weapon, I have suggested that conservatives also try to use it, hoping that the broadcasting industry and Congress might thus be jarred into awareness of what is happening. In this *Report*, September 16, 1963 ("Darkness Is Descending On The Land"), I suggested that conservatives request free time on stations carrying a preponderance of liberal commentary. Following this suggestion, conservatives have tried to use the FCC Fairness Doctrine as a two-edged sword; but it does not cut both ways. A classic case occurred in Dallas.

On October 23, 1963, former Major General Edwin A. Walker spoke at the Memorial Auditorium, criticizing the United Nations. This meeting was given practically no advance publicity by the press or broadcasting media. Walker's speech was not broadcast. The next night, Ambassador Adlai E. Stevenson spoke at the Memorial Auditorium, praising the UN. This meeting had received an enormous amount of free, advance publicity, through all communications media. The CBS television outlet in Dallas (KRLD) gave the pro-UN group one hour of premium time for

the broadcast of Ambassador Stevenson's speech. Walker's anti-UN audience was about the same size as the audience at Stevenson's widely publicized pro-UN meeting.

These facts indicate: (1) that the UN is "an issue of public importance" and a "controversial issue" in Dallas, within the meaning of the FCC Fairness Doctrine Notice;⁽⁷⁾ (2) that at least half the Dallas community is opposed to Stevenson's views on the UN; and (3) that anti-UN spokesmen had not had "opportunities," to broadcast their views, "similar" to those given pro-UN spokesmen (in compliance with section "c" of the Fairness Doctrine Notice).⁽⁷⁾

KRLD rejected demands by conservatives for free time to answer Stevenson's pro-UN broadcast. Conservatives wrote to the FCC. FCC replied with a two-page letter, quoting passages from its own Fairness Doctrine, concluding that "it does not appear that any Commission action is warranted"—in the matter of KRLD giving one hour of time for a pro-UN speech, none for an anti-UN speech.

Nonetheless, I hope conservative demands for free time to answer liberal broadcasts continue and increase. They dramatically reveal (as in the KRLD case) the hypocrisy and unfairness of the FCC Fairness Doctrine. There are encouraging signs that many station managers have already been prodded into resisting the drive to convert their facilities into controlled outlets for the expression of views by government-favored pressure groups.

In the April 6, 1964, issue of this *Report* ("COPE"), I reported on AFL-CIO use of the FCC Fairness Doctrine in an unsuccessful effort to harass conservative commentary off the air in Montana. In June, 1964, two ultra-liberal groups in Washington, D. C., initiated a nationwide attack which seems concentrated on my broadcasts.

On June 12, 1964, Mr. Arnold Aronson, Secretary of the Leadership Conference on Civil Rights, 704 17th Street, N.W., Washington, D. C. 20006, wrote radio stations in all areas carrying my broadcasts, citing the FCC Fairness Doctrine, demand-

ing 13-and-one-half minutes of free time for an already-prepared tape to answer one of my 12-minute sponsored broadcasts which criticized the Civil Rights Act. Mr. Aronson implied that the public had had no opportunity to hear arguments in favor of the Act. On June 15, 1964, Mr. Philip McMartin, Assistant Public Relations Director of the National Rural Electric Cooperative Association, 2000 Florida Avenue, N.W., Washington, D. C. 20009, wrote radio stations demanding 13-and-one-half minutes of free time for an already-prepared tape to answer my 12-minute sponsored broadcast which criticized the President's war-on-poverty program. Mr. McMartin implied that the public had had no opportunity to hear arguments in favor of the President's program.

One station manager told me that the Aronson and McMartin demand letters were the last straw. He is cancelling all conservative commentary, and will run only commentary which has the approval of Washington officialdom or of groups supporting administration programs. He is cancelling all religious broadcasts except those approved by "recognized" leaders in the National Council of Churches or in major denominations. The religious broadcasts he is cancelling were all made on time sold at regular rates. He gives time for most of the "approved" religious programs. He would

rather suffer the financial loss than endure the pressures exerted upon him for carrying conservative programs.

All other station managers who have communicated with me about the Aronson and McMartin demand letters are resisting. Most merely tell Aronson and McMartin that arguments for the Civil Rights Act and for the President's anti-poverty program have been fully aired. They are not protecting me or my viewpoint: they are reading handwriting on the wall. The FCC and ultra-liberal pressure groups are working hand-in-glove to control and monopolize broadcasting—to force upon all broadcasters sterile conformity with officially-approved views.

The Remedy

By innuendo, veiled threats, and vague rulings, the FCC has exercised controls which lack legal authority, because broadcast stations have complied without resisting. Congress can give no relief in such cases, because the FCC can always refer to its own ambiguities as proof that it did not issue orders which it has no right to issue. If broadcast stations will stand firm, they will force the FCC either to stay within the limits of granted

WHO IS DAN SMOOT?

Born in Missouri, reared in Texas, Dan Smoot went to SMU getting BA and MA degrees, 1938 and 1940. In 1941, he joined the faculty at Harvard as a Teaching Fellow, doing graduate work for a doctorate in American civilization. From 1942 to 1951, he was an FBI agent: three and a half years on communist investigations; two years on FBI headquarters staff; almost four years on general FBI cases in various places. He resigned from the FBI and, from 1951 to 1955, was commentator on national radio and television programs, giving *both* sides of controversial issues. In July, 1955, he started his present profit-supported, free-enterprise business: publishing *The Dan Smoot Report*, a weekly magazine available by subscription; and producing a weekly news-analysis radio and television broadcast, available for sponsorship by reputable business firms, as an advertising vehicle. The *Report* and broadcast give *one* side of important issues: the side that presents documented truth using the American Constitution as a yardstick. If you think Smoot's materials are effective against socialism and communism, you can help immensely—help get subscribers for the *Report*, commercial sponsors for the broadcast.

You can help educate and arouse the people who elect men responsible for harmful programs of government. When enough other Americans know and care as you do, political action to restore our Republic will come.

If *The Dan Smoot Report* was instrumental in bringing you to the point of asking what *you* can do about saving the country from mushrooming big government, here is a checklist for you: Have you urged others to subscribe to the *Report*? Have you sent them reprints of a particular issue of the *Report*? Have you shown them a Dan Smoot film? Have you ever suggested a Bound Volume of *The Dan Smoot Report* for use by speakers, debaters, students, writers? Have you read and passed on to others any of the Dan Smoot books—*The Invisible Government*, *The Hope Of The World*, *America's Promise*?

authority, or to exercise *openly* an authority not granted. If the latter should happen, it is almost certain that Congress would act to protect the broadcast industry.

To give *adequate* protection, Congress should repeal the Communications Act and abolish the FCC. Local and state laws and free-market competition could protect the public against clearly-harmful broadcasting. Local and state laws could regulate traffic on airwaves, as they regulate traffic on highways.

FOOTNOTES

- (1) "Report And Statement of Policy Re: Commission *En Banc* Programming Inquiry," FCC Public Notice-B, July 29, 1960
- (2) "In the Matter of Editorializing by Broadcast Licensees," FCC Report, Docket No. 8516, June 1, 1949
- (3) For details on skulduggery involved in Mrs. Lyndon B. Johnson's acquiring Station KTBC in Austin, see J. Evetts Haley's *A Texan Looks At Lyndon: A Study in Illegitimate Power*, pp. 55 ff., published June, 1964, by The Palo Duro Press, P. O. Box 390, Canyon, Texas; \$1.00.
- (4) "Why Speech On Television Is *Not* Free: An Ambiguous Government regulation, and broadcasters' cautious interpretation of it, are giving the American television viewer an incomplete—and perhaps dangerously distorted—picture of his world," article by staff writer Edith Fron, *TV Guide*, April 11, 1964
- (5) Chapter X, "Communications Media," *The Invisible Government*, by Dan Smoot published by The Dan Smoot Report, Inc., June, 1962; \$3.00.
- (6) *The Christian Beacon*, August 15, 1963; *The Dan Smoot Report*, September 16, 1963, and April 6, 1964
- (7) Text of FCC Public Notice-B, July 26, 1963:

"Several recent incidents suggest the desirability of calling the attention of broadcast licensees to the necessity for observance of the fairness doctrine stated by the Commission in its opinion of June 1, 1949 in Docket No. 8516. The Commission adheres to the views expressed in that opinion and continues to apply that policy, namely, that the licensee has an affirmative obligation to afford reasonable opportunity for the presentation of contrasting viewpoints on any controversial issue which he chooses to cover.

"The Commission has undertaken a study to consider what actions, perhaps in the form of a primer or rules, might

be appropriate better to define certain of the licensee's responsibilities in this area. Without undertaking at the present time to specify all, or the most important, applications of the policy, it is appropriate to call attention to the Commission's view of its application in three currently important situations:

"(a) When a controversial program involves a personal attack upon an individual or organization, the licensee must transmit the text of the broadcast to the person or group attacked, wherever located, either prior to or at the time of the broadcast, with a specific offer of his station's facilities for an adequate response (*Clayton W. Mapoles*, 23 Pike & Fischer, R.R. 586, 591; *Billings Broadcasting Company*, 23 Pike & Fischer, R.R. 951, 953).

"(b) When a licensee permits the use of his facilities by a commentator or any person other than a candidate to take a partisan position on the issues involved in a contest for political office or to attack one candidate or support another by direct or indirect identification, he must immediately send a transcript of the pertinent continuity in each such program to each candidate concerned and offer a comparable opportunity for an appropriate spokesman to answer the broadcast (*Times-Mirror Broadcasting Co.*, 24 Pike & Fischer, R.R. 404, 405).

"(c) When a licensee permits the use of his facilities for the presentation of views regarding an issue of current importance such as racial segregation, integration, or discrimination, or any other issue of public importance, he must offer spokesmen for other responsible groups within the community similar opportunities for the expression of the contrasting viewpoints of their respective groups. In particular, the views of the leaders of the Negro and other community groups as to the issue of racial segregation, integration, or discrimination, and of the leaders of appropriate groups in the community as to other issues of public importance, must obviously be considered and reflected, in order to insure that fairness is achieved with respect to programming dealing with such controversial issues.

"In determining compliance with the fairness doctrine the Commission looks to substance rather than to label or form. It is immaterial whether a particular program or viewpoint is presented under the label of 'Americanism,' 'anti-communism' or 'states' rights' or whether it is a paid announcement, official speech, editorial or religious broadcast. Regardless of label or form, if one viewpoint of a controversial issue of public importance is presented, the licensee is obligated to make a reasonable effort to present the other opposing viewpoint or viewpoints.

"The Commission does not seek to prevent the expression of any viewpoint by any licensee on any issue. It does seek to prevent the suppression of other contrasting viewpoints by any licensee on any issue when licensed broadcast facilities have been used for the presentation of one view of the issue. This is required by the public interest standard of the law."

- (8) For full text of the Test Ban Treaty, and discussion, see *The Dan Smoot Report*, August 5, 1963.
- (9) *Broadcasting*, September 2, 1963, pp. 61-2

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